STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company	:	
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	:	10-0138
Proposal to Establish Rider PORCB (Purchase of Receivables with Consolidated Billing) and to Revise Other Related Tariffs (tariffs filed January 20, 2010)	: : : :	

PRETRIAL MEMORANDUM

OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

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PRETRIAL MEMORANDUM OF STAFF
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Pursuant to the schedule set by the Administrative Law Judge at a status hearing on March 24, 2010, Staff of the Illinois Commerce Commission ("Staff"), by and through its attorneys, hereby submits its Pretrial Memorandum in this investigation of a proposal to establish Rider PORCB (Purchase of Receivables with Consolidated Billing) and to revise other related tariffs by Commonwealth Edison Company ("ComEd").

I. INTRODUCTION

In November of 2007 the General Assembly amended the Public Utilities Act (the "Act") by passing, among other provisions designed to remove certain barriers to competition for residential and small commercial customers in Illinois, Section 16-118(c) and (d). 220 ILCS 5/16-118(c). On January 19, 2010, ComEd filed tariffs pursuant to Section 16-118(c), which included a new Rider PORCB- Purchase of Receivables with Consolidated Billing. Over a year ago, the Commission concluded its review of tariffs filed by the Ameren Utilities to implement the requirements of Sections 16-118(c) and (d) of the PUA. *See Final Order,* ICC Docket Nos. 08-0619/0620/0621 (Cons.) (August 19, 2009).

Although Staff has conducted a thorough and complete review of the ComEd PORCB tariff filing to date, Staff reserves its right to raise new contested issues should they come to light not identified below. Accordingly, subject to this limitation, Staff submits the following statement of contested and uncontested issues.

II. STATEMENT OF CONTESTED AND NONCONTESTED ISSUES

A. Contested Issues

1. ComEd's Proposed $0.50 Fixed Per Bill Charge

ComEd's proposed cost recovery method is through a fixed per bill charge rather than through a fixed percentage of the purchased receivables. Under AIU's UCB/POR program, there is one discount rate for the receivables purchased by the electric utility, regardless of customer class and amount of the receivables. Under ComEd's proposal, the number of potential discount rates is almost limitless. As a result, the Commission is being asked to judge the reasonableness of not one discount rate, as was the case in the AIU tariff investigation, but that of a wide range of discount rates, depending on the amount of receivables purchased

Staff Witness Clausen explains why he opposed the ComEd proposed fixed charge per bill. As noted above, the proposed fixed per bill charge creates effective PORCB discount rates that vary greatly from customer to customer. A fixed per bill charge that results in a relatively high discount rate for customers who are consuming relatively small amounts of electricity each month has the potential to discourage RESs from signing up those customers. The proposed fixed per bill charge of fifty cents creates a discount rate that is different from the purchased receivables of one RES customer to the next. For example, the fixed per bill charge of fifty cents represents a larger portion of $40 worth of purchased receivables than that of $400 worth of receivables.

Staff, instead, proposes a percentage charge for the cost recovery from the RESs, similar to the one the Commission ordered for Ameren. AIU's initial percentage charge for the recovery of costs other than uncollectible costs is 0.68%. In other words, AIU's initial discount rate is 0.68% plus the most recent Commission-approved uncollectible costs. Applying the same 0.68% to ComEd's PORCB tariff would result in an initial residential discount rate of 2.92% (2.239% uncollectibles factor plus 0.68% cost recovery) and an initial non-residential discount rate of 1.454% (0.774% uncollectibles factor plus 0.68% cost recovery).

2. Final True-Up Of DICs And BSMICs After Year Ten

Staff proposes that Rider RCA include language that explains that the implementation costs will be recovered from all eligible customers for no more than ten years, with the following two exceptions. First, there should be a reconciliation for the Consolidated Billing ("CB") Adjustment at the end of year ten in order to allow for the recovery of any potential remaining Billing Systems Modifications and Implementation Costs ("BSMIC") balance through the Customer Charge in the following 12-month period. Second, it appears that the manner in which the POR Adjustment reconciliation is proposed, recovery of DICs through the Customer Charge could extend to the POR application period ending after year 13.

ComEd's primary objection to this additional tariff provision seems to stem from its general opposition to Staff's proposal to limit rider recovery to capital costs incurred on or before December 31, 2011. However, ComEd suggests that a 10-year reconciliation process could be effectuated through a simple adjustment to the POR Application Period definition. In order to do so, Staff recommends that the following definition for the POR Application Period (found on Original Sheet No. 393 of Rider PORCB) be adopted:

> POR Application Period
> Purchase of Receivables (POR) Application Period means a period of time that extends for twenty-four (24) monthly billing periods immediately following a previous POR Application Period. The initial POR Application Period is the period of time that begins at the start of the January 2011 monthly billing period. Notwithstanding the previous provisions of this definition, the first two ~~initial~~ POR Application Periods extend~~s~~ for thirty-six (36) monthly billing periods.

This definition will ensure a reconciliation of the Consolidated Billing Adjustment at the end of year ten. In addition, Staff proposes the following language for Rider RCA that allows for the recovery of any potential remaining Billing Systems Modifications and Implementation Costs balance through the Customer Charge in the following 12-month period:

> For POR Application Periods that end after December 31, 2022, such CB Adjustment shall not include Billing Systems Modifications and Implementation Costs (BSMICs).

3. December 31, 2011 Cut-Off Date For The Incurrence Of Implementation Costs

ComEd argues against any cut-off date for the incurrence of implementation costs. ComEd states that it is initially pursuing a "bill ready" form of consolidated billing and ComEd has no current plans to pursue 'rate ready' before December 31, 2011."

Staff, however, is not aware of any plans by ComEd to offer a “rate ready” version of consolidated billing *after* December 31, 2011.

Also, when it comes to revisiting and/or re-litigating for a potential ‘rate ready’ PORCB, it seems there are two possible scenarios. The first would be where all interested parties are in agreement on the proper cost recovery mechanism and, if the Commission has no objection to the proposed tariff revisions, the tariff changes can go into effect within 45 days after being filed. The second scenario would be where the parties cannot decide on the proper cost recovery method. If the Commission decides there is merit to the arguments made by the party (or parties) opposing the tariff revisions, the issue then rightfully belongs in front of the Commission. ComEd states that if a December 31, 2011 cut-off date were adopted, RESs and customers may suffer as any changes would require significant lead time before they could be enabled , and even a relatively simple change could take more than 30 months to approve and implement. Staff is unclear whether ComEd is suggesting that “a relatively simple” change will always require 18 months of IT development. However, even if that were the case, it seems unlikely that the absence of a tariff filing will bring down the time needed for IT development to a period of less than the suggested 18 months.

ComEd argues that because of a Commission order or as a result of RESs and ComEd continuing to work together after the close of this docket, it may also be appropriate to include additional billing functionalities that could become necessary under other provisions of Senate Bill 1299 (such as referral programs). However, Staff points out that if the Commission orders ComEd to make necessary changes in order to implement a referral program, Staff is confident that ComEd and other parties will urge the Commission to address the issue of cost recovery as part of that Order. If a referral program gets implemented as a result of "RESs and ComEd continuing to work together," the agreed-upon cost recovery method could be approved by the Commission by way of not suspending any necessary tariff revisions. Further, if there are additional costs with the implementation of a referral program, the impact of the existing December 2010 cut-off in AIU's tariffs will have to be decided regardless. Thus, there does not seem to be too much gained from not having such a cut-off date in ComEd's tariffs. Also, it is possible that a referral program will include RESs that are not using PORCB and, thus, it might not be appropriate to recover the total costs through the PORCB discount rate.

ComEd further states that Staff's proposed December 31, 2011 cut-off date will result in an appropriate allocation of costs. However, ComEd assumes that if the Commission adopts the proposed cut-off date, the costs are not recoverable from RESs using PORCB. It further argues that if the costs are not recoverable from RESs using PORCB then they would presumably be recovered from all distribution service customers. Staff disagrees with these assumptions. Adopting the December 2011 cut-off date will not make it impossible to recover costs associated with a potential rate ready PORCB service from RESs using PORCB. It will require a separate tariff revision, however, if those costs will be incurred after December 31, 2011.

4. Commission Determination On Cost Recovery From RESs After Year Ten

In the Ameren Order, the Commission concluded that it "reserves the right to leave the discount rate above the level that would be needed to recover AIU's uncollectible and ongoing administrative expenses beyond the end of the five-year amortization period." Staff recommends that the Commission reach the same conclusion in this Docket, for two reasons. First, adopting ComEd's proposal would effectively prejudge an issue the Commission will be deciding at the end of AIU's five-year cost recovery period. Second, it appears that, in the AIU tariff investigation, the Commission did not foresee collecting interest charges beyond the five-year cost recovery period. While the adopted so-called Fair Cost Allocation Adjustment ("FCAA") included interest charges, the FCAA did not change the five-year cost recovery period.

5. Definitions Of Costs To Be Recovered

While the Company has accepted Staff's proposal to set forth definitions in a distinct section of the tariff for costs to be recovered, it has proposed changes which in Staff's opinion provide less precision for the costs to be recovered. The Company's changes would:

1. Expand the specific costs to be recovered;[1]
2. Include the phrase "but not limited to";[2]
3. Defer expenses from November 9, 2007 until the effective date of the tariffs for cost recovery as development, modification, and implementation costs [3]; and
4. Reject my time limitation on costs for development, modification, and implementation.[4]

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[1] ComEd Ex. 3.5 Corr., Original Sheets 393 and 394.

[2] *Id*., Original Sheets 393 and 394.

[3] *Id.,* Original Sheet 394.

[4] ComEd Ex. 3.0, p. 17, lines 431 - 432.

6. Timing Of Informational Filings

Staff proposed that informational filings be made 30 days prior to the effective date of the rates due to the increased amounts of information that would have to be reviewed prior to accepting any rate changes. The Company continues to argue that filing on the 20th of the month prior to the effective date is the appropriate deadline.

7. Cost Estimates

The Company has not adequately supported its cost estimates which will provide the basis of the CB Adjustment that will be charged under the proposed tariff language beginning in April 2011. Staff recommends that ComEd provide workpapers including third-party invoices supporting the costs no later than February 1, 2011 for the CB adjustment effective April 2011. In addition, Staff recommends that the Commission direct ComEd to evaluate the CB Adjustment rate in effect for the first Application Period when they file the first annual report as provided for in Rider PORCB, Original Sheet 399. Based on the total costs included in that annual report, ComEd should confer with Staff to determine if an interim revision to the CB adjustment rate is necessary. The Company does not see the necessity of these recommendations.

8. Rate of Return

Staff recommends a 6.71% rate of return for ComEd's unrecovered PORCB costs (i.e., the PORCB assets) because the PORCB assets are less risky than ComEd's rate base assets. ComEd proposes to use its authorized rate of return on rate base for PORCB assets. CUB argues the risk of recovery for costs associated with PORCB assets is less than rate base assets due to the rider mechanisms, the rate of return granted on such assets should be less. CUB supports Staff's rate of return recommendation.

B. Uncontested Issues

1. Switching Rule Revisions

Given that ComEd has delayed the expected “go live” date for operations under Rider PORCB several times in the past and the currently effective “go live” date is already 14 months after the effective date of the AIU’s UCB/POR tariff, the last thing Staff wants to see is another delay in the implementation of Rider PORCB. If the Commission makes the following declarations in the Order in this proceeding, Staff will not recommend that the Commission reject the tariff provisions in question.

First, the Commission should make it clear that it is not deciding upon a new rescission period for residential and small commercial customers when approving these tariff revisions. The Commission should recognize that there is a distinction between the extended enrollment period described in ComEd’s proposed tariff revisions and the rescission period contemplated in the Code Part 412 rulemaking. The latter addresses issues between a RES and the retail customer (primarily the issue of early termination fees), while the former does not. Given that ComEd itself states that its proposed tariff revisions are “technically compliant” with all proposals surrounding those issues in the Code Part 412 rulemaking, it appears that ComEd is aware of these distinctions. In other words, in the event the Commission adopts ComEd’s proposed tariff revisions related to its switching rules, no party will be able to (credibly) claim in the Code Part 412 rulemaking that the Commission has already decided an issue that is at issue in the rulemaking.

Second, the Commission should emphasize in the Order in this proceeding that it will not make any determination as to whether any new rescission period (or other potential additional obligations) will apply to non-residential customers using more than 15,000 kWh annually. In other words, approving these proposed tariff revisions will not prejudge the issue of what constitutes an appropriate definition of a "small commercial customer" as it being contested in the Code Part 412 rulemaking. Only if the Commission sufficiently clarifies these intentions in the Order in this proceeding is Staff able to recommend approval of the tariff revisions in question.

2. Bill Inserts

Staff does not wish to force the Commission to make a decision on this issue in this proceeding. Staff continues to view this issue as a matter that should require a certain parity between the situation where the RES sends out a consolidated bill (SBO) and the situation where the utility sends out a consolidated bill (UCB). However, Staff does not want to see further delay in the implementation of Rider PORCB. Staff will inform the Commission of any potential need to formally resolve any outstanding issues at a later time.

3. Cost Definitions

The Company made the following tariff language proposals to which Staff agrees:

1. Setting the effective date of the rider as the date for recovery of costs incurred under AOC and BSAOC definitions;

2. Including "net actual uncollectible costs" in the definition of AOCs;

3. Stating the actual date Section 5/16-118 became effective; and

4. Reflecting separate definitions for each of the 4 components rather than combining the definitions as I proposed.

4. Interim Reporting Recommendations

Staff will accept the Company's proposal for the requested interim reporting to be made 90 calendar days after the end of each application period rather than the previously proposed 60 days. In addition, Staff agrees that the information in the interim report need only be provided for periods in which an internal audit is not required. However, Staff has proposed to add tariff language such that the required interim information will be included in the internal audit report provided to Staff.

5. Zero POR and CB Adjustments

For purposes of limiting contested issues, Staff will withdraw its proposal rejecting the three month zero POR and CB Adjustment

6. Tracking of Revenues

The Company has agreed to establish unique accounts in its general ledger system to track revenues associated with PORCB receivables.

7. Tracking and Recordkeeping for Costs

The Company has agreed to maintain cost information in the level of detail proposed in Staff's direct testimony

III. ACRONYMS

Billing System Modification and Implementation Costs ("BSMICs")

Billing System Administrative and Operations Costs ("BSAOCs")

Developmental and Implementation Costs ("DICs")

Administrative and Operations Costs ("AOCs")

Fair Cost Allocation Adjustment ("FCAA")

Single Billing Option ("SBO")

Retail Customer Assessments (“RCA”)

Uncollectible Factors (“UF”)

Operating and Maintenance (“O&M”)

Direct Access Service Request (“DASR”)

III. CONCLUSION

Respectfully submitted,

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